

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**Building Code Appeals Board
Docket No. 05-482**

| | | | |
|-------------------|-----------|---|--|
| Verizon Wireless, | |) | |
| | Appellant |) | |
| | |) | |
| v. | |) | |
| | |) | |
| Town of Danvers, | |) | |
| | Appellee |) | |
| | |) | |

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR§503 of the Massachusetts State Building Code ("Code") in order to install a cupola on an existing building (known as the Lyons Ambulance Building), to house wireless telecommunications equipment ("Project").

By letter dated September 12, 2007, David J. Harris, Assistant Building Inspector for the Town of Danvers ("Appellee") denied the permit application for the Project because the Project would exceed the height and area requirements set forth in 780 CMR § 503.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on October 23, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Paul A. Bergman and Kristine E. Kraushaar appeared on behalf of Appellant. Richard Maloney appeared on behalf of Appellee.

Reasons for Variance

The issue is whether Appellant should be allowed a variance from the limitations set forth in 780 CMR § 503. The Board considered evidence that the existing structure on which the Project will be installed already has a hose tower of almost 72 feet in height. The top of the cupola for the Project would be almost 65 feet from ground level. In addition, Appellee did not object to the Project.

Decision




The Chair entertained a motion to grant a variance from 780 CMR §503, based upon the testimony and the facts that: the Board granted a similar variance for the same structure in 2001 (see docket 01-077); the equipment in the cupola will be protected by heat and smoke detection that will trigger the main fire alarm in the structure ("Motion"). Following testimony, and based upon relevant information provided, Board members voted to approve the Motion as described on the record. The Board voted as indicated below.

X..... **Granted** ☐..... Denied ☐..... Rendered Interpretation ☐

___.....Granted with conditions ☐..... Dismissed

The vote was:

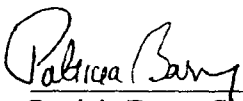
X.....**Unanimous** ☐ Majority

| | | |
|--|--|--|
|  |  |  |
| _____ Alexander MacLeod | _____ Harry Smith – Chair | _____ Keith Hoyle |

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: March 3, 2008



Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$10.00 per copy. Please make

Copies of the recording are available from the Board for a fee of \$10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

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